



## COMMUNITY DEVELOPMENT DEPARTMENT

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### PLANNING COMMISSION MEETING MINUTES

#### REGULAR MEETING

MARCH 14, 2006

PRESENT: Acevedo, Koepp-Baker, Benich, Escobar, Lyle, Mueller

ABSENT: None

LATE: Davenport, who arrived and was seated 7:10 P.M.

STAFF: Community Development Director (CDD) Molloy Previsich, Planning Manager (PM) Rowe, City Attorney (CA) Kern, Contract Planner (CP) Bischoff, and Minutes Clerk Johnson

Chair Lyle called the meeting to order at 7:02 p.m., by asking CP Bischoff to lead the flag salute. Chair Lyle then welcomed City Attorney Janet Evans who was in attendance.

#### DECLARATION OF POSTING OF AGENDA

Minutes Clerk Johnson certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

#### OPPORTUNITY FOR PUBLIC COMMENT

With no members of the audience indicating a wish to address matters not on the agenda, the time for public comment was closed.

#### MINUTES:

DECEMBER 13,  
2005

THE DECEMBER 13, 2005 MINUTES WILL BE CONSIDERED AT A FUTURE TIME.

FEBRUARY 28,  
2006

COMMISSIONERS MUELLER/ACEVEDO MOTIONED TO APPROVE THE FEBRUARY 28, 2006 MINUTES WITH THE FOLLOWING CORRECTIONS:

Page 1, Minutes corrections: ~~emulate~~ *emanate*

Page 3, paragraph 8: (add) ...proposed, *but the ARB did not receive or approve any elevations reflecting the height now being allowed by the amended table.*

Page 4, paragraph 3: ~~complementary~~ *complimentary*

Page 7, paragraph 6: **Item 1, signage** ~~with~~ *will*

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**THE MOTION CARRIED BY THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, BENICH, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: DAVENPORT.**

**PUBLIC  
HEARING:**

*Noting the number of requests received and the fact that continuation for item 6 was being requested, Chair Lyle, with concurrence from the rest of the Commissioners, moved item 6 to this point on the agenda.*

**6) GPA-05-06/  
USA-05-01/  
ZA-05-27/  
ANX-05-18:  
SANTA TERESA-  
BLACKROCK**

Proposed amendments to the plans of the City of Morgan Hill regarding an 18-acre parcel located at the southwest corner of the intersection of Santa Teresa Blvd. and Watsonville Rd. Proposed are the following actions: amendment to the Morgan Hill General Plan Land Use Diagram, changing the land use designation of the parcel from County Rural to Residential Estate, pre-zoning the parcel RE 40,000 (RPD), including the parcel within the City's Urban Service Area, and annexing the parcel into the city limits.

PM Rowe presented the staff report, saying the applicant has asked for four separate actions regarding the subject property. PM Rowe explained that the applicant is proposing to include the property within the City's Urban Growth Boundary and assign it the Residential Estate general plan designation, with this property then being eligible for development at densities up to one unit per acre.

PM Rowe advised that staff does not support the application. Because there is a request to continue the matter to the Planning Commission meeting of March 28, 2006, speakers can be heard at this or the meeting two weeks hence. PM Rowe advised that letters of opposition to the annexation had been received from residents on Sycamore Drive.

Chair Lyle opened the public hearing.

The applicant, Rocke Garcia, 14500 Sycamore Dr., was present to ask for the continuance for two weeks to the March 28, 2006 meeting.

Zoe Gustlin, 15369 Sycamore Dr., told the Commissioners she lives nearby the subject property. Ms. Gustlin clarified her concerns regarding the subject property and surrounding sites. "If you look at the demographics at Sycamore and Edmondson (streets) this is the gateway to the County property," Ms. Gustlin said, as she urged the Commissioners to agree that the property should remain in large parcels with a minimum of 2.5 - 5 acres. She urged Commissioners to 'retain the beauty that is there' and not let it become a housing tract. Ms. Gustlin urged the Commissioners to visit the site.

*Commissioner Davenport arrived and was seated on the dais at 7:10 p.m.*

Ms. Gustlin asked why the City wants to incorporate the 'beautiful' land, noting there is much land in the City now with complex schemes for developers to build. She said she thought the area under discussion should 'stay natural' and asked the Commissioners to consider leaving the property untouched.

Noting there were no others present to address the issue, **COMMISSIONERS ACEVEDO/ BENICH MOTIONED TO CONTINUE THE GPA-05-06/ USA-05-01/ ZA-05-27/ANX-05-18: SANTA TERESA-BLACKROCK REQUESTS TO THE PLANNING COMMISSION MEETING OF MARCH 28, 2006. THE MOTION PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL**

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**COMMISSIONERS PRESENT; NONE WERE ABSENT.**

*The regular order of the agenda was resumed at this time in the meeting.*

**1) DAA 03-13 &  
DAA 05-01:  
COCHRANE-  
MISSION RANCH**

A request to amend previously approved development agreements to incorporate 5 additional building allocations awarded to phases 8, 9a & 9b of the Mission Ranch project located on the south side of Cochrane Rd. between Mission View Dr. and Peet Rd.

PM Rowe gave the staff report, recalling that at the November 28, 2005 Planning Commission meeting, it was voted to reassign allocations not used (rescinded) to the Mission Ranch project (Morgan Hill Planning Commission Resolution No. 05-73). PM Rowe explained that the action(s) at this meeting would formalized the action made in November, 2005, with a modification noted on the Development Agreement of application DAA-05-01 on page 10, item (v) ~~\$3,300~~ **\$5,500**. This revision of the Development Agreement would be sent to the City Council for formal action, PM Rowe said. He also called attention to modifications in the amended development schedule for Mission View-Mission Ranch FY 2005-06 allocations ~~27~~ **28** and FY 2006-07 ~~18~~ **22** allocations.

Chair Lyle opened the public hearing.

Dick Oliver, 385 Woodview Ave., #100, was in attendance representing the applicants.

With no other person present to address the matter, the public hearing was closed.

**COMMISSIONER MUELLER OFFERED A RESOLUTION RECOMMENDING APPROVAL OF DEVELOPMENT AGREEMENT AMENDMENT APPLICATIONS DAA-03-13 AND DAA-05-01 FOR APPLICATIONS MP-02-15 AND MP-04-26: MISSION VIEW DR.-MISSION RANCH. INCLUSIVE OF THE INDICATED CHANGE ON PAGE 10. NOTING THE FINDINGS AND CONDITIONS CONTAINED THEREIN, COMMISSIONER ESCOBAR PRESENTED THE SECOND TO THE MOTION, WHICH CARRIED BY THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.**

**2) UP-05-06:  
ADAMS-NATT  
VETERINARY  
HOSPITAL**

A request for approval of a Conditional Use Permit (CUP) for a 3,950 sf. veterinary hospital on a 1.1-acre site located in the northeast quadrant of the intersection of Adams Ct. and Cochrane Rd. The site is zoned Light Industrial. A Mitigated Negative Declaration is proposed.

PM Rowe presented the staff report with regard to the application for a use permit for a veterinary hospital, as he provided data regarding the currently vacant site. PM Rowe indicated that the issues of traffic access and noise levels associated with the proposed outdoor kennel had resulted in the formulation of findings which were included in the staff report. PM Rowe called attention to a letter received from Dick Oliver, who has an office off Woodview Avenue, with Mr. Oliver expressing concern of barking dogs on the site. PM Rowe spoke on the installation of a masonry fence around the outdoor area and how it would differ from the kennel on Tennant Ave. near the facility housing MH Engineering Co. Reiterating, PM Rowe said this will be a masonry fence, whereas the

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other is chain link with slats; he also advised of fencing on the west boundary of the property. Noting the concern raised by Mr. Oliver, PM Rowe reminded that all use permits have a review period after one year of business operation. PM Rowe further called attention to the conditions dealing with waste water, which was now inclusive in item H of the conditions.

Commissioner Benich inquired as to the number of veterinary hospitals in the City and whether complaints had been received of those? PM Rowe responded he was not aware of complaints, which would be handled through Code Enforcement. Commissioner Mueller said there were three veterinarian offices in the City, with one having an outdoor kennel. A brief discussion ensued regarding the sites and activities at the various veterinarian offices.

Chair Lyle clarified that there was one owner of record for the property.

Commissioner Acevedo reminded that at the last Commission meeting he had spoken about the issue of barking dogs in outdoor kennels. He indicated that he had noticed at that time that the City had not provided documentation of concern regarding noise factors as a comparison between Paws Place and the veterinary hospital on Tennant Ave. Commissioner Acevedo continued by speaking to the sizes of square footage, etc., of this facility and the existing one on Tennant.

Chair Lyle opened the public hearing.

Dick Oliver, 385 Woodview Ave., #100, told Commissioners where his office is located in relation to the proposed facility. Mr. Oliver asked for 'serious consideration' as the Commissioners deliberate the request before them. "I think it would be architecturally more pleasing if the fence next to the kennel would be relocated. It would provide better setback from the corner and be more pleasing," Mr. Oliver said, as he explained a possible alternative location for the outdoor kennel.

Charles Weston, 17600 Depot St., #120, addressed the Commissioners on behalf of the applicant, who he said was present as well. Mr. Weston said he agreed with the staff report, but asked for changes to Section 4 B [time limits], with an increase to ~~12~~ 18 months and F [ARB review] ~~90~~ 180 days to ease the burden of obtaining finances. Mr. Weston detailed the site plans as he explained the location of the front door. Mr. Weston stressed that Dr. Natt wants 'a presence in the City of a veterinary clinic so people will become aware of the business' and become more friendly in the town. Mr. Weston spoke of the facility on Tennant, saying this business has done a good job of having dogs contained in the designated area, as he added that he thought that where the outside dog kennel is located is good.

Commissioner Mueller commented that the use permit could be called up in 6 months if the noise and/or odors were not acceptable. Mr. Weston responded that Dr. Natt is in the same business in San Jose and is well aware of the need to be diligent. Commissioner Mueller continued by asking if this business could withstand the loss of the outdoor area? Mr. Weston responded that question could be more appropriately addressed by the applicant. Mr. Weston talked about the proposed animal hospital as being the only one on the north end of town.

Commissioner Koepp-Baker said she had the same concerns as those she had voiced

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during the hearings for Paws Place: noise, odors, fencing, cleaning of the outdoor area.

Chair Lyle noted that in the past the Commissioners have indicated they were not in favor of solid walls, but if they were present, the Commissioners were certainly in favor of landscaping. Chair Lyle asked Mr. Weston if there would be a problem with the Planning Commission requiring extensive landscaping at the wall (fence)? Mr. Weston responded that he would be developing a landscape plan and therefore there would be no problem with such a requirement.

Dr. Natt approached the podium to respond to a question by Commissioner Mueller: if approval were given for the CUP tonight with an outdoor kennel, but it was later determined not workable because of noise and odors, could the business still function? She responded, "Yes, definitely."

Commissioner Escobar asked, "How big is the San Jose facility you have?" Dr. Natt explained that it is 2000 sf. and this one will be 4000 sf.; she went on to tell of the location of the current facility and other current occupants in a busy strip mall.

Responding to further questions from the Commissioners, Dr. Natt explained that the current facility does not have an outside kennel, but she is very careful of noise – and sensitive to odors. She also said that if required, the outdoor kennel could be eliminated.

With no others to speak to the matter, the public hearing was closed.

**COMMISSIONERS MUELLER/ESCOBAR MOTIONED TO CONSENT TO A RESOLUTION, INCLUSIVE OF THE FINDINGS AND CONDITIONS CONTAINED THEREIN, WHICH WOULD GIVE APPROVAL FOR A VETERINARY HOSPITAL ON A VACANT PARCEL AT THE INTERSECTION OF COCHRANE ROAD AND ADAMS COURT, WITH THE FOLLOWING MODIFICATIONS:**

**Section 4: B [time limits] with an increase to ~~12~~ 18 months and F [ARB review] ~~90~~ 180 days**

**Section 4 D; ~~annual~~ review of CUP following six months of business**

**Section 4 H (add) 5; Heavy landscaping at outdoor kennel area**

Commissioner Acevedo asked the purpose of requiring extra landscaping? The Commissioners discussed the matter, with agreement reached that because the proposed building is a highly visible entrance to the area (gateway), visual screening is essential. Chair Lyle noted the Commissioners will be setting the potential for ARB action. Commissioner Acevedo said he is in agreement with the visual screening, but wanted to make sure it was noted that the landscaping would have no effect on possible noise factors.

**THE MOTION PASSED WITH THE UNANIMOUS AFFIRMATIVE VOTE OF ALL COMMISSIONERS PRESENT; NONE WERE ABSENT.**

*Chair Lyle said that the Planning Commissioners had received a lot of information at the last minute for the remaining agenda items and that he would be in favor of hearing the staff report and receiving public comment, but not taking action at this meeting. The other Commissioners concurred. Consequently, agenda items 3, 4 and 5 were presented and discussed concurrently, with public hearings opened to receive comments.*

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- 3) GPA-05-05:  
CITY OF M.H.,  
ULL/GREENBELT  
STUDY IMPLE-  
MENTATION**
- An amendment to the Morgan Hill General Plan Land Use Diagram to accomplish the following:
1. Establish an Urban Limit Line (ULL) around most of the City,
  2. Expand the Urban Growth Boundary and designate Single Family Low approximately 20 acres of land located on the west side of Sunset Ave., opposite Denali Dr., Yellowstone Dr., Whitney Way and Bryce Dr. (APNs 767-19-028 & a portion of 024 and 767-15-026),
  3. Expand the Urban Growth Boundary and designate Residential Estate approximately 23 acres of land located on the west side of DeWitt Ave. opposite Spring Ave. (APNs 773-09-001, 002, 005, 006, a portion of 010, 011, 018, 027 & 028),
  4. Contract the Urban Growth Boundary to exclude approximately 92 acres of land on the northeast side of Malaguerra Ave. (APNs 728-34-019, 020 & 021, 728-35-001, 002 & 039),
  5. Contract the Urban Growth Boundary to exclude approximately 38 acres of land on northern slopes of El Toro, north of John Telfer Dr. and south of Llagas Rd. (APNs 764-31-001 (a portion of), 764-38-006, 008 & 009, a portion of 773-32-004 & 008),
  6. Contract the Urban Growth Boundary to exclude approximately 28 acres of land on west side of Casino Real (APN 773-30-005), and
  7. Contract the Urban Growth Boundary to exclude approximately 10 acres of land on east side of Water Ave. (APN 779-06-023).

In addition, the Goals, Policies and Actions of the Community Development Element and the Open Space and Conservation Element of the General Plan are proposed to be amended to identify Greenbelt areas and to provide guidance regarding the intent and implementation of the ULL and Greenbelt areas.

- 4) AMENDMENT  
TO DESIRABLE  
INFILL POLICY**
- Proposed amendments to the City Council policy regarding expansion of the Urban Service Boundary for Desirable Infill.

- 5) USA-05-02/  
ZA-06-01/  
ANX-06-01:  
EDMUNDSON-  
OAK MEADOW  
PLAZA**
- Proposed amendments to the plans of the City of Morgan Hill regarding a 34-acre area involving 4 parcels located on the west side of Sunset Ave. opposite Denali Dr., Yellowstone Dr., Whitney Way and Bryce Dr. Proposed are the following actions: pre-zoning 14 acres of the area Open Space and 20 acres of the area R-1 12,000, including the 20-acre area to be pre-zoned R-1 12,000 into the City's Urban Service Area, and annexing the 34-acre area into the city limits.

CP Bischoff, Consultant for the studies, provided a comprehensive overview of the history of the three agenda items and the contents of each.

Chair Lyle inquired as to LAFCO involvement in the Urban Limit Line Study process? CP Bischoff responded that the agency had some attendance at meetings but personnel had not been as active as those from the County.

It was noted that considerable correspondence had been recently regarding the studies and that staff had not had the opportunity of review of the letters. A letter of support, CP Bischoff, had been received from the County.

Commissioners raised the following:

- concern of additional 'lines' to delineate areas of the City – possible need to

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- simplify
- benefit to owners in specific areas
- restrictions of Measure C
- pressure of lands in County / need for setting expectations to set limits of growth and then no further
- ‘starting point’ for the southeast quadrant which contains 1200 acres of ‘untouched lands’ within the City Sphere of Influence
- plan - since the early 1990s - to have the Greenbelt be part of the City’s General Plan
- implementation of such plans ‘really proves the City is trying to plan the future of Morgan Hill: what will be where and what kind of housing will be developed
- Greenbelt Area / City parkland
- golf course not allowed within open space
- area nearby Church to be included in the USA
- slope explains area [potential for industrial use; CDD Molloy Previsich advised consideration of same is in progress but limited to this point]
- need to look at amount of land needed for industry + what does business part of future look like now [sub-discussion of classic model of industrial development versus new business park model: business workplace close to homes and readily available service - describes as ‘very different from present’]

**BY CONSENSUS, THE COMMISSIONERS AGREED THE ENVIRONMENTAL ASSESSMENT WOULD BE CONSIDERED AT THE MARCH 28, 2006 PLANNING COMMISSION MEETING.**

It was noted that the Environmental Assessment is readily available for review by the public.

Chair Lyle opened the public hearing for those wishing to address agenda item 3.

Hong-Duc Parker, 620 Spring Ave. distributed a letter to the Commissioners expressing her views.

Jon Maxey and Dan Frame, 16615 DeWitt, asked for the inclusion of 2 parcels into the Urban Service Line and distributed a letter supporting the request.

Barton Hechtman, 848 The Alameda, San Jose, voiced support for the staff’s recommendations on agenda items 3, 4, and 5. Mr. Hechtman commended staff for making clear the recommendations of the issues that the MOU is non-binding. Mr. Hechtman stressed the MOU was conceived as a ‘roadmap’: how to get from the concepts of the Advisory Committee to implementation which will preserve 84 acres. Chair Lyle discussed the language concerning the MOU (section e page 3) with Mr. Hechtman assuring that the concept was ~~I~~ not to act as any type of guarantee for any number of points in Measure C and stating clearly that the owners know they may not get any allocations nor were they trying to pin down number of points in advance of Measure C. “If this project goes forward, the owners are aware they must compete as others do”, Mr. Hechtman said. Responding to a question from Commissioner Escobar, Mr. Hechtman said, “The owner understands there is no pledge by the City.”

CP Bischoff echoed Mr. Hechtman’s statements, telling the Commissioners, “This is the City’s language and the owner knows of the eligibility requirements under Measure C

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and that there is no guarantee.”

CDD Molloy Previsich advised the open space easements would be recorded at the time of implementation, but Measure C matters would be within future competitions. Chair Lyle said, “I just want to make it clear as I have concern that no promises be made.” Mr. Hechtman responded, “The MOU is non-binding; tonight you have full discretion.”

Jeff Pederson, 403 Cascades Ct., distributed written comments from which he spoke on issues of the draft Environmental Assessment and potential non-compliance with CEQA. Mr. Pederson spoke at length on the potential for secondary dwelling units to be constructed in the Oak Meadow Plaza area and impact those units would have. He indicated that impact was not addressed in the Assessment.

Commissioner Acevedo reminded members of the audience that the role of the Commissioners is to recommend the report to the City Council for dis/approval or not.

Pete Gale, 650 Spring Ave., asked about the Church site and telling of confusion as to the Urban Growth Boundary and the Urban Limit Line on land to be owned by the City and saying he was curious as to the ‘split’ for the 20 acres west of Sunset.

Bill McClintock, 15685 Vineyard Blvd., was present to address the inclusion of the 20 acres west of Sunset Ave. Mr. McClintock told the Commissioners the owners were clear that the dedications were to be recorded before any action would be possible (considered) by the City regarding possible allocations, meaning the owners knew that the competition for allocations was a requirement. Mr. McClintock said, “Greenbelting in some places (other locations) involves a condemnation with compensation but I think that here we are moving density to more appropriate areas. The City realized the need to preserve open space in the near future to avoid undesirable development of County property. These 20 acres can support multiple amounts of units and the owners are sensitive to the neighbors.”

With no others present to address items dealing with agenda item 3, the public hearing was continued to the March 28, 2006 Planning Commission meeting.

Commissioner Acevedo commented, “The Commissioners make recommendations to the City Council and therefore no certifiable action would be made before the review period is completed with official action only by the City Council,” as he stressed the requirements of CEQA. Chair Lyle agreed, but said the issue is that sometimes the City Council may get new information at meetings, which was not received during the public comment period. Commissioner Mueller reminded that action will not be taken at this meeting regarding the environmental assessment with new information being received by the Commissioners which could be presented to the Consultants for response at the March 28, 2006 meeting.

Commissioners engaged in discussion of points of concerns:

- Exhibit A, page 3 (recommended text) 3e under item 6 contains contradictions [2 sentences] Urban Limit Lines within the City limits etc
- Page 5, policy 15d to community development line needs more specificity
- Page 4, item 7.5d recordation of Open Space easements appears to be violation of Measure C
- Exhibit A, page 4, Items 7.4, 7.5 and 7.6 may be too specific for the General



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Plan. (CP Bischoff responded the Advisory Committee spent much time on this issue and wanted to ensure development occurred in certain methods. He declared this seems the best place for these issues to be placed.

- West side of El Toro: General Plan identifies properties on both sides of El Toro; this is a second level of priority of preservation for El Toro
- MOU: page 3 - issue of points perhaps should be reworded to ensure clarity that the property must undergo the completion of Measure C/future competition(s)
- MOU: page 5 (iv) for Open Space to provide community benefit, it must be publicly owned/operated
- Need for identification in the Table of Contents of authors and consultants (have to go to page 104 of document to see)
- Appendix reference to maps; however, no maps are present if and where indicated
- Policies of uses [appendix a, page 8, item 2(r)]; land uses in Greenbelt missing reference to schools; discussion of Sobrato high school location/agreements

**COMMISSIONERS MUELLER/ESCOBAR MOTIONED TO CONTINUE THE PUBLIC HEARING FOR AGENDA ITEM 3 TO THE MARCH 28, 2006 PLANNING COMMISSION MEETING. THE MOTION PASSED WITH THE UNANIMOUS AFFIRMATIVE CONSENT OF ALL COMMISSIONERS PRESENT; NONE WERE ABSENT.**

*CP Bischoff recommended deliberation of agenda item 5 at this time; The Commissioners concurred.*

CP Bischoff presented the staff report.

Chair Lyle expressed the concern that the open space easements may not be permanent. CP Bischoff tells of open space easement in City and how owners have been told of the firm obligation.

Commissioner Mueller advised that it would take vote of people to change the open space easements. He cited Measure C having language that Measure P did not: if Open Space is designated on the General Plan that Open Space has been agreed by the people (voters) and can't change without a vote of the people. Chair Lyle pointed out that since this is new open space, it would require a new RDCA initiative before it would be protected by initiative.

Chair Lyle opened the public comment period for agenda item 5.

W.E. Moreau, 415 Cascades Ct. expressed concern that developers seem to have some advantages in the studies. Mr. Moreau said that if 60 new houses were to be built, that could create 600 more car trips in the area. He said he walks the area and sees kids playing freely on the streets. "If development occurs, the neighborhood will be changed forever." He continued by saying he understood the City has 10% restrictions on the slopes and thinks a variance to 12.5% is planned. He also spoke on the flood plain in the area and asked about earthquake faults? Mr. Moreau concluded by saying the questions he asked reflected concerns of his own, but believed them to be reflective of others as well.

Yvette Castañon, 401 Yellowstone Dr., wondered if the Advisory Committee, in

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considering the benefits for the City, had considered the neighbors in the area. Ms. Castañon, said that the area residents - about six years ago – had expressed concerns of having Olympic Dr. go all the way through to Cosmo. Ms. Castañon reminded that the City had consultants who said the area would not be negatively impacted – however, compromise was necessary so a stop sign was placed. “And now cars go right through with no regard to the residents nor the ‘tot lot’ which the residents pay for,” she said. Ms. Castañon said that when she moved in eight years ago, the developers promised that the land would remain as promised for at least a decade but now there is this proposal for 60 new houses in the and that’s of concern. “We’ve had considerable discussion about the ‘benefits’ and as a neighbor in the area, I just don’t see the benefit of having 60 new houses on that beautiful land,” Ms. Castañon declared.

Jerry Whitaker, 393 Yellowstone Dr., told the Commissioners he had come to speak against the proposal. Mr. Whitaker said that the benefit of the open space is highly ‘debatable’. Mr. Whitaker spoke of the Open Space area of 20 acres just west of Sunset where 60 homes could be built.

“I think there is need to protect against castles. The City should recognize the potential of additional housing development,” and he suggested focusing on the downtown core area of the City for development, leaving green areas. Mr. Whitaker said development of the 20 acres would not benefit the public.

Maria Hodges, 407 Whitney Way, told the Commissioners she had sent the e-mail to them through the Planning Department. Ms. Hodges expressed dismay at being told the owner has no plan for development – but the developer had shown area residents a plan at a recent neighborhood meeting. “Now there appears to be attempts to invalidate concerns of area residents,” Ms. Hodges said. She continued by telling of abundant numbers of children in the area which prompted concern of increased cars on Whitney Way. Ms. Hodges said, “If there is annexation, the City needs to consider people in the area. We need to have restrictions.” Ms. Hodges concluded by saying it seems to her that this owner is getting some kind of preferential treatment – such preferential treatment may not be intentional, but it is there. Ms. Hodges noted she was reflecting the concerns of a nearby neighbor who had to leave the meeting.

John Skeen, 402 Yellowstone Dr. told Commissioners he has ‘strong opposition’ to development on Sunset. Mr. Skeen said he was unsure of the Advisory Committee’s recommendation and had just been invited two weeks ago by the developer to a meeting. Mr. Skeen talked about the location of the City’s water tower and the easement to Yellowstone where drainage is of concern. Mr. Skeen told of the path of drainage overflow to the pond and asked if, in the traffic study, consideration had been made of the location of the nearby indoor recreational facilities as well as the lots south of Edmondson? Mr. Skeen said he had concerns, too, about public safety: if you add population, what does the City need to do about adding fire protection. “I want to have public safety addressed,” Mr. Skeen declared.

Jeff Pederson spoke again; telling the Commissioners it ‘gets down to a question of *when* it is the proper time to take action. Mr. Pederson indicted he was very much in favor of the efforts – and highly applauded those efforts - of the City trying to protect open space. “This is a great city because of the surrounding area containing the open space,” Mr. Pederson asserted. “Again,” he said, “it is a question of *when* to include this area in the Urban Service Line. In some respects it is good to question how land is being controlled

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and further to question the true benefit to the public.” Mr. Pederson clarified concern about the potential for development of the 60 lots would be the availability of construction of 60 accessory units (one per lot) which could equate into 120 units. Mr. Pederson stressed that fact should be considered when considering ultimate density. “I don’t know if the time has come – but I don’t think so - for including that area [the 20 acres] in the Urban Limit Line,” Mr. Pederson told the Commissioners.

Barb Sullivan, 16135 Olympic Drive, indicated she appreciated the work completed on the entire plan. Ms. Sullivan termed this to be a ‘huge accomplishment’ and said that part of the reason she had left the Planning Commission was the frustration with people who insist that their ‘right is more important than the City’. “This discussion tonight is not a case of landowners saying that. This is important. This is a change to the General Plan and should be taken very seriously,” as she reminded that: “Many residents bought on the basis of the General Plan and consider it to be a contract.” Ms. Sullivan said she really thought 60 houses on the proposed annexation might be too many. “Maybe 20,” she said. “This is truly a change in the General Plan and needs in-depth conservation.”

Barton Hechtman raised the following topics with the Commissioners:

- the concept is a plan for neighbors to have a starting point and definitely is not a final plan
- adoption of MOU does not violate CEQA
- MOU crafted in non binding nature so not in violation
- MOU was approved by City Council first of February 2005 with property owner signing and can now be signed by the City
- language of Measure C promotes creative interpretation (Mr., Hechtman thinks this document provides a broad enough tone to encompass concerns raised at this meeting)

Mr. Hechtman engaged in discussion with Chair Lyle regarding the ownership of the easement stating that it appears to be in favor of the City and is enforceable by the City. He also referenced:

- 10% slope restriction is a misnomer - requirement is restriction on 20%  
(Note: add for clarification: the 10% was recommended by the ULL Task Force; City Ordinance does not regulate on slopes of less than 10%; the Ordinance regulates development on slopes between 10-20% and prohibits development on slopes of 20% or more.
- question of *when* - time for action is now – if there is action later Mr. Hechtman said he did not think the land for Open Space would be available

Commissioner Mueller, CP Bischoff, and Mr. Hechtman had discussion during which the percentage of slope permissible for building was clarified and explained. Commissioner Mueller said a concern of backyards up the slope(s) would create a violation and the intent of the Task Force was to avoid that.

Mr. McClintock responded to questions mentioned by area residents regarding the meeting to which they had been invited. Mr. McClintock said that, based on the outcome of an election where the downtown might be exempted, and if the election were held in June, there would be the possibility of having a (Measure C allocation) competition in 2006 with allocations for 2008 being awarded. “However, if there is a November election, then a different award timeline would be in effect,” he said.

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Mr. Pederson responded to a question from Commissioner Mueller regarding the 'right time' he had referenced earlier. "When are we at risk," Commissioner Mueller asked, "and when is it time to protect?" Commissioner Mueller advised that now the City has no control on the subject property as it is under the county's jurisdiction. Mr. Pederson said that currently the property owner can build 10 homes on the entire property. Mr. Pederson says there seems to be a theory that a concession is being made by the property owner, but the parcels are at risk by County standards and will remain so until they are brought into the City.

Chair Lyle indicated earlier statements about accessory housing made by Mr. Pederson were inconsistent with the current practices in Morgan Hill, which encourage accessory units on approximately 10% of the lots.

Chair Lyle asked Mr. Hechtman if the owner was look at opinions other than 60 lots? Mr. Hechtman said they were looking at other different options but research had not produced appreciable 'different numbers'.

Susan Collins, 392 Cascade Ct., asks about the ¼ mile proximity requirements referenced in the studies. She told Commissioners of concerns of traffic and stop signs, telling of numerous conversations with the Police Department and the Mayor relative to the stop sign in the intersection. Mrs. Collins spoke on concerns of

- small number of police personnel for area due to staffing deficiencies
- added traffic and drainage

CP Bischoff addressed questions raised by the speaker:

- City limits and the relation of requirements of annexed land(s) being within one-fourth mile of the City limits
- drainage: all projects must take care of own drainage issues
- clarification of the numbers of sworn peace officers in the City (four per shift)
- further investigation of traffic from the indoor recreation center
- scoring for RCDS competition under Measure C – scoring of public safety is based distance from public fire station – proximity to CDF and El Toro Fire Station in this instance, and there is also identified criteria for police to score the applications
- public was invited with several announcements into the process; earlier the City Council had difficulty getting people to sit on the Advisory Committee, but continued to try to get diversity of geographic location and also different interests

Commissioner Koepp-Baker said she wants a part of the Resolution for the next meeting to include language from the Hillside Ordinance which would clarify the 10 – 12.5% slope issues. CP Bischoff advised the current City Ordinance regulates development on slopes between 10 and 20 percent and prohibits development above 20 percent. Commissioner Koepp-Baker said she wanted it made very clear in the Resolution. CP Bischoff was given direction to address the flood plain and the earthquake maps.

**COMMISSIONERS MUELLER/ESCOBAR MOTIONED TO CONTINUE THE PUBLIC HEARING ON AGENDA ITEM 5 TO THE MARCH 28 PLANNING COMMISSION MEETING. THE MOTION PASSED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.**

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Item 4 amendment to desirable infill policy

CP Bischoff presented the staff report.

Responding to a question from Commissioner Acevedo, CP Bischoff spoke of the language added a year ago which recognized items of benefit to the general community. Commissioner Mueller and Chair Lyle further cited the need for incorporation of language consistent with Measure C.

Chair Lyle opened the floor for comment on agenda item 4.

Noting that the item had been addressed as part of discussion/comment on agenda items 3 and 5 and with none present to address the current discussion, **COMMISSIONERS MUELLER/ESCOBAR MOTIONED TO CONTINUE AGENDA ITEM 4 TO THE MARCH 28, 2006 PLANNING COMMISSION MEETING. THE MOTION PASSED WITH THE FOLLOWING VOTE: AYES: ACEVEDO, KOEPP-BAKER, BENICH, DAVENPORT, ESCOBAR, LYLE, MUELLER; NOES: NONE; ABSTAIN: NONE; ABSENT: NONE.**

Chair Lyle suggested Physical Criteria 3 could be changed to reference the effective date of Measure C.

Discussion followed regarding:

- ownership of public facilities
  - wording changed in document from 'parcels' to 'lands' with Chair Lyle noting that – in some places such word change might not be appropriate
- 187.807.0 (b)

**ANNOUNCEMENTS:**

Commissioner Acevedo called attention to the annexation of the Church and indicated that using the term "land" instead of "parcel" may create other problems

CDD Molloy Previsich advised of the groundbreaking for the new City Library project on April 15 and reminded that access on the north side of the building housing the meeting room will be closed. She further advised that the Commissioner's mailboxes are to be moved. "Just remember," she said, "to get to the Commission meetings, enter through the south side"; adding the entrances 'may be flexible as time goes on'.

**ADJOURNMENT:**

With no further business to come before the Commission at this meeting, Chair Lyle declared the meeting adjourned at 11:09 p.m.

**MINUTES PREPARED BY:**

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**JUDI H. JOHNSON, Minutes Clerk**